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Minutes

Building Code Coordinating Council (BCCC)

Ashburton Café Meeting Room, One Ashburton Place, Boston, MA 02108

November 20, 2014

1:07 Liz Minnis opened the meeting.

1. Roll Call:

a. Anne Powers Co-Chair (AP)	x present <input type="checkbox"/> absent	j. Wayne Thomas (WT)	x present <input type="checkbox"/> absent
b. Liz Minnis Co-Chair (LM)	x present <input type="checkbox"/> absent	k. Peter Kelly (PK)	x present <input type="checkbox"/> absent
c. Ian Finlayson (IF)	x present <input type="checkbox"/> absent	l. Mike Feeney (MF)	<input type="checkbox"/> present x absent
d. Tom Gatzunis (TG)	x present <input type="checkbox"/> absent	m. Madelyn Morris (MM)*	x present <input type="checkbox"/> absent
e. Richard Ness (RN)	x present <input type="checkbox"/> absent	n. Tom Hopkins (TH)	x present <input type="checkbox"/> absent
f. Peter Ostroskey (PO)	x present <input type="checkbox"/> absent	o. Walter Zalenski (WZ)	x present <input type="checkbox"/> absent
g. Steve Rourke (SR)	x present <input type="checkbox"/> absent	p. Ed Kawa (EK)**	x present <input type="checkbox"/> absent
h. Rob Anderson (RA)	x present <input type="checkbox"/> absent	q. Aime DeNault (AD)	x present <input type="checkbox"/> absent
i. Peter Senopoulos (PS)**	x present <input type="checkbox"/> absent	r. Tim Langella (TL)	x present <input type="checkbox"/> absent

* Designees: David Bragg for Madelyn Morris

** PO and EK arrived at 1:10

Note 1: Votes are noted as (Motion by, Second by, All) if the vote is unanimous followed by the time.

Note 2: See the attached page "BCCC Membership" for department names.

2. Minutes: Review and approval of July 17, 2014 meeting minutes. (SR, PS, all except TG, AP, TH abstained) 1:18

3. Administration:

- New members: EK, PO.
- Check and update membership list data.
- Reminder to review open meeting law. Received OML signature form from new members.
- Received letter of designation from MM.

4. Old Business:

a. **271 CMR Sheet Metal Code** (Board of Examiners of Sheet Metal Workers)

- i. November 6, 2014 complete re-submittal for vote (replaces April 4, 2014 submittal documents).
 1. DPL's Summary Statement to BCCC, file received 11/6/14.
 2. 271 CMR Chapters 1-5 and 7-9, files received 11/6/14.
 3. 271 Chapter 6: adoption of the Uniform Mechanical Code (table of contents, chapters 1-8 and appendix), files received 11/6/14.

-PK noted this was the third submittal by SMB to BCCC on 271. No attempt is being made to expand SMB authority from what it has been over the last several years. The key change to the UMC was removing the word "mechanical" and inserting the words "sheet metal" to prevent 271 from conflicting with the IMC and re-working the definition of sheet metal.

-TG noted DPS has tried to work with SMB for five years on this issue but is still at an impasse regarding DPL's jurisdictional authority for residential buildings. DPS also requests documentation of changes and conflict/duplication per the BCCC protocol.

-RA noted little progress over the years on this issue and questions the inclusion of residential work since the definition of sheet metal in 271 specifically states commercial work.

-PK indicated the SMB interprets commercial as commercial equipment whether it's in a commercial or residential building and permits have been issued accordingly over the last three and a half years. It was also noted that the current 8th edition building code refers to 271 CMR for sheet metal work in both the commercial code and the 1-2 family code.

-TG noted DPS disagrees with SMB's interpretation that 271 includes residential work and that enforcing it that way for the last three years doesn't make it right.

-IF believes including residential is a clear expansion of SMB's authority regarding residential testing and is in conflict with the building code's energy provisions. SMB has added a chapter on testing and balancing to 271 CMR that is not in either of the model codes (IMC or UMC). It now requires sheet metal workers to test and balance ductwork when there is no history of that being the case.

-PK reiterated the SMB interprets the sheet metal definition as not exclusively commercial and noted no appeals have been submitted on residential project to date. It was also noted that by statute testing and balancing of all air handling equipment and duct systems requires a sheet metal license.

-TG re-stated DPS disagrees and stands that there remains a direct conflict, suggesting the issue should be brought to the AG's office, that is represented on the BCCC, for guidance on the definition to determine which code applies.

-RA read the contents of several chapters of the building code noting that sheet metal regulations already exists there, emphasizing switching to another entirely new code to govern the same thing is clear duplication, and, suspects there will be conflict in many areas.

-PK noted having two boards sharing one existing code is problematic.

-PS questioned should large apartment type buildings be considered commercial or residential or is it commercial systems that SMB is talking about that would exist in both commercial and residential buildings?

-RA noted residential refers to use group in the building code and includes one- and two-family, townhouses and apartment buildings of any size.

-TG again noted that DPS doesn't believe the statutory definition of sheet metal gives the SMB authority of all residential buildings and that is again why the AG should be consulted.

-SR contends that deference is given statutorily to the board promulgating the regulations on how to interpret the statute.

-Beth McLaughlin, general counsel for DPS was recognized by the chair and indicated that while deference is given to boards in general, here, DPS contends SMB's interpretation is in conflict with the building code which is promulgated by a different board.

-AP indicated a preference to get help from the AG office on the big issue of the definition of sheet metal and the SMB's authority before moving forward on the rest of the issues.

-TL requested that DPS and SMB each submit a document setting forth their issue and arguments.

-PS asked if the issue could be parsed such that while the definition/jurisdiction issue was being reviewed by the AG, the BCCC could proceed ahead on the technical issues because of life safety concerns.

- TG indicated he is not aware of any life safety issues with the current code sheet metal language and again that is why DPS questions replacing that language with another model code that essentially says the same thing.
- Beth McLaughlin responded to questions about what BCCC wanted from the AG, noting the response would in essence be expressed by TL's BCCC vote on whether to move/support SMG's proposals or find them in conflict/duplication with the building code.
- SR in discussing whether BCCC wanted a formal or informal reply from the AG, questioned if BCCC's intent was to judge the statutory authority of a board once it received guidance from the AG, and advised strongly against it if that was the case.
- TL offered that the BCCC is not tasked with determining a board's jurisdiction but rather if there is overlapping jurisdiction then BCCC is charged with getting rid of the duplicity, etc. SR and others seemed to be in general agreement with this statement.
- IF again stressed the concern with SMB's regulations encompassing residential testing work, and, contrary to earlier comments by PK, noted that SMB's proposed testing requirements by licensed sheet metal workers are in fact completely new.
- PK noted that with licensing having only been required for the last few years everything is fairly new. PK noted that: without a sheet metal permit being issued many residential HVAC renovations would likely be done without any type of permit to verify energy code compliance; that red-line documents posted for review and the table of contents posted and reviewed at the meeting clearly identify what is "new" in the UMC – including the Testing & Balancing chapter; that this is the third time this chapter has been posted for BCCC review without any formal comments being submitted; and that this is not an expansion of the Board's Authority – testing, adjusting and balancing of "all" air handling equipment and ductwork installed during new or remodeling construction has been in MGL c. 112, s 237 since August 2008 and 271 CMR since February 2010
- PK was not opposed to getting AG guidance but indicated he would abstain from voting until he could consult with SMB legal counsel.
- TG made a motion to Table action on 271 so DPS and DPL can formulate their position regarding DPL's jurisdiction over residential uses and submit to AG through the BCCC Co-Chairs within two weeks for response. (TG, TH, All except PK-abstained) 1:58

5. New Business:

- a. **527 CMR Fire Code** (Board of Fire Prevention Regulations)
 - i. 502 CMR 5.00: *Permit and Inspection Requirements of Above Ground Storage Tanks of more than Ten Thousand Gallon Capacity*, for information only as no conflict or duplication noted.
 - A. These regulations relate to the protocol/frequency of inspections.

PO noted these regulations are promulgated by the Fire Marshall due to changes in statute. No concerns noted from BCCC.
- b. **780 CMR Building Code** (Board of Building Regulations and Standards)
 - i. 9th Edition Chapter's 1, *Scope and Administration*, of the base and residential vol. for first read.
 1. 780 CMR 1.0, base volume.
 2. 780 CMR 51.0, R1.0, residential volume.

-RA noted these two chapters recently were re-written as part of the 8th edition and therefore recently went through the entire promulgation process. They are now revised to become part of the 9th edition of the building code with few changes from the 8th edition version.

-AP expressed concern with parsing out chapters rather than submitting all the chapters at once to avoid revisiting previously submitted and approved chapters.

-SR agreed to a first read but with the understanding that all parties would make efforts to resolve any issues and present suggested edits before presenting these chapters for final read.

-PO requested that future submittals include a summary document by DPS highlighting changes and noting potential conflicts and duplications as has been the policy.

-RA noted commentary was provided throughout the document in that regard but understood the concern.

-TG noted a cover summary document will be provided moving forward.

-PS recommended holding off on the second and final read of chapter 1's until all the other chapters were vetted.

6. **Other Matters:** Other matters not received 14-days before this meeting. None.
7. **Adjourn:** Approval to adjourn.
(TL, TG, All) 2:10

Exhibits listed as file names:

- A. OML Forms, Kawa, Ostroskey
- B. DEP delegates David Bragg
- C. BFPR delegates Peter Ostroskey
- D. 271 CMR Red Line
- E. 271CMR 11-6-14 BCCC Summary Statement
- F. 2012 UMC Appendix
- G. 2012 UMC Chapter 1 - red line
- H. 2012 UMC Chapter 2 - Red Line
- I. 2012 UMC Chapter 3 - Red Line
- J. 2012 UMC Chapter 4 - Red Line
- K. 2012 UMC Chapter 5 - Red Line
- L. 2012 UMC Chapter 6 - Red Line
- M. 2012 UMC Chapter 7 - red-line
- N. 2012 UMC Chapter 8 - red-line
- O. 2012 UMC Table of Contents - Red-line
- P. 502 CMR 5, Above Ground Storage Tanks, text, - 10292014
- Q. 502 CMR, Above Ground Storage Tanks, email from Deputy State Fire Marshal
- R. 2014_04_Chapter_01_Staff_redline_10_14_14
- S. 2014_04_Chapter_51_R01_Staff_redline_10_14_14

BCCC Membership

Per EO 518 of 1/28/10

Updated 11/21/14

	Department	Position	Held by:	Designee:	Telephone:
1	EO PSS – Exec. Office of Public Safety and Security	Secretary - BCCC co-chair	Andrea Cabral	Anne (Nancy) Powers	617 727 7775
2	EO A+F – Exec. Office of Administration and Finance	Secretary - BCCC co-chair	Glen Shor	Liz Minnis	617 727 4050 x 566
3	EO EEA – Exec. Office of Energy, Environmental Affairs	Commissioner	Meg Lusardi	Ian Finlayson	617 626 4910
4	DPS – Department of Public Safety	Commissioner	Tom Gatzunis	-	617 727 3200
5	DHCD – Dept. Housing and Community Development	Chairman (Secretary)	Greg Bialecki	Richard Ness	617 573 1163
6	BFPR –Board of Fire Prevention Regulations	Chairman	Kevin Robinson	Peter Ostroskey	978 567 3112
7	DFS – Department of Fire Services	State Fire Marshal	Stephen Coan	Steve Rourke	978 567 3182
8	BBRS – Board of Building Regulations and Standards	Chairman	Brian Gale	Rob Anderson	617 826 5268
9	BSEE – Board of State Examiners Electricians	Chairman	Stephen Coan	Peter Senopoulos	978 567 3183
10	BSEPG – Board of State Examiners Plumbers Gasfitters	Chairman	Paul Kennedy, Sr.	Wayne Thomas	617 727 6388
11	BSESM – Board of State Examiners Sheet Metal	Chairman	Jeff Chase	Peter Kelly	617 727 3022
12	DPH – Department of Public Health	Commissioner	Lauren Smith MD	Mike Feeney	617 624 5757
13	DEP – Department of Environmental Protection	Commissioner	David Cash	Madelyn Morris	617 654 6599
14	AAB – Architectural Access Board	Chairman	Walter White	Tom Hopkins	617 727 0660
15	BER – Board of Elevator Regulations	Chairman	Walter Zalenski	-	617 826 5238
16	BPRS – Board of Pipefitters, Refrig. Techs., Sprinklers	Chairman	Ed Kawa	-	617 826 5270
17	FSC – Fire Safety Commission	Chairman	Aime DeNault	-	978 479 8585
18	AGO – Attorney General Office	Attorney General	Martha Coakley	Tim Langella	617 963 2031

